

First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

SENATE ENROLLED ACT No. 47

AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 11-12-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. As used in this chapter, "county ~~corrections~~ **misdemeanant** fund" refers to a fund established under section 6 of this chapter.

SECTION 2. IC 11-12-6-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 3.5. As used in this chapter, "minimum allocation amount" refers to the amount of funding that applies to a county under section 11.1(a) of this chapter.**

SECTION 3. IC 11-12-6-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 4.5. As used in this chapter, "multiplier" refers to the number that applies to a county under section 11.1(b) of this chapter.**

SECTION 4. IC 11-12-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. A county legislative body ~~may adopt an ordinance to elect to~~ **shall** receive deposits made under section 13 of this chapter and ~~to establish a county~~ **corrections misdemeanant** fund. The county fiscal body shall administer the

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county ~~corrections~~ **misdemeanant** fund. The fund consists of deposits made by the department under section 13 of this chapter.

SECTION 5. IC 11-12-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. A county ~~corrections~~ **misdemeanant** fund ~~may~~ **shall** be used only for funding the operation of the county's jail, jail programs, or other local correctional facilities **or community based programs**. Any money remaining in a county ~~corrections~~ **misdemeanant** fund at the end of the year does not revert to any other fund, but remains in the county ~~corrections~~ **misdemeanant** fund.

SECTION 6. IC 11-12-6-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 11.1. (a) The minimum allocation amount under this chapter, which represents the dollar amount each county was entitled to receive under level 3 funding in state fiscal year 1998, is as follows:**

Adams County	14,000
Allen County	129,500
Bartholomew County	35,000
Benton County	3,500
Blackford County	14,000
Boone County	14,000
Brown County	3,500
Carroll County	7,000
Cass County	17,500
Clark County	49,000
Clay County	7,000
Clinton County	17,500
Crawford County	3,500
Daviess County	7,000
Dearborn County	35,000
Decatur County	24,500
Dekalb County	24,500
Delaware County	35,000
Dubois County	45,500
Elkhart County	52,500
Fayette County	10,500
Floyd County	21,000
Fountain County	7,000
Franklin County	7,000
Fulton County	14,000
Gibson County	24,500



Grant County	28,000
Greene County	17,500
Hamilton County	28,000
Hancock County	10,500
Harrison County	24,500
Hendricks County	24,500
Henry County	17,500
Howard County	66,500
Huntington County	10,500
Jackson County	45,500
Jasper County	14,000
Jay County	7,000
Jefferson County	21,000
Jennings County	10,500
Johnson County	31,500
Knox County	14,000
Kosciusko County	42,000
LaGrange County	7,000
Lake County	234,500
LaPorte County	35,000
Lawrence County	52,500
Madison County	101,500
Marion County	294,000
Marshall County	35,000
Martin County	3,500
Miami County	24,500
Monroe County	35,000
Montgomery County	24,500
Morgan County	31,500
Newton County	7,000
Noble County	28,000
Ohio County	3,500
Orange County	7,000
Owen County	7,000
Parke County	7,000
Perry County	14,000
Pike County	10,500
Porter County	42,000
Posey County	14,000
Pulaski County	10,500
Putnam County	14,000
Randolph County	10,500

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Ripley County	17,500
Rush County	7,000
St. Joseph County	112,000
Scott County	31,500
Shelby County	17,500
Spencer County	10,500
Starke County	10,500
Steuben County	14,000
Sullivan County	7,000
Switzerland County	7,000
Tippecanoe County	56,000
Tipton County	3,500
Union County	3,500
Vanderburgh County	161,000
Vermillion County	14,000
Vigo County	42,000
Wabash County	21,000
Warren County	7,000
Warrick County	21,000
Washington County	31,500
Wayne County	38,500
Wells County	10,500
White County	14,000
Whitley County	17,500

(b) The multiplier under this chapter for each county, which represents each county's approximate proportion of the total state population, is as follows:

Adams County	.0057
Allen County	.0548
Bartholomew County	.0114
Benton County	.0017
Blackford County	.0024
Boone County	.0070
Brown County	.0026
Carroll County	.0033
Cass County	.0068
Clark County	.0155
Clay County	.0044
Clinton County	.0055
Crawford County	.0018
Daviess County	.0049
Dearborn County	.0072



Decatur County	.0042
Dekalb County	.0064
Delaware County	.0213
Dubois County	.0067
Elkhart County	.0291
Fayette County	.0046
Floyd County	.0117
Fountain County	.0031
Franklin County	.0036
Fulton County	.0034
Gibson County	.0056
Grant County	.0129
Greene County	.0054
Hamilton County	.0214
Hancock County	.0083
Harrison County	.0055
Hendricks County	.0139
Henry County	.0084
Howard County	.0143
Huntington County	.0063
Jackson County	.0068
Jasper County	.0045
Jay County	.0038
Jefferson County	.0053
Jennings County	.0043
Johnson County	.0163
Knox County	.0070
Kosciusko County	.0121
LaGrange County	.0056
Lake County	.0835
LaPorte County	.0191
Lawrence County	.0076
Madison County	.0229
Marion County	.1465
Marshall County	.0077
Martin County	.0018
Miami County	.0056
Monroe County	.0203
Montgomery County	.0061
Morgan County	.0103
Newton County	.0024
Noble County	.0070

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Ohio County	.0010
Orange County	.0033
Owen County	.0032
Parke County	.0027
Perry County	.0034
Pike County	.0022
Porter County	.0233
Posey County	.0046
Pulaski County	.0022
Putnam County	.0055
Randolph County	.0047
Ripley County	.0044
Rush County	.0032
St. Joseph County	.0447
Scott County	.0038
Shelby County	.0072
Spencer County	.0035
Starke County	.0041
Steuben County	.0050
Sullivan County	.0034
Switzerland County	.0014
Tippecanoe County	.0241
Tipton County	.0028
Union County	.0012
Vanderburgh County	.0292
Vermillion County	.0029
Vigo County	.0186
Wabash County	.0061
Warren County	.0014
Warrick County	.0082
Washington County	.0043
Wayne County	.0126
Wells County	.0047
White County	.0041
Whitley County	.0050

SECTION 7. IC 11-12-6-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. (a) Before ~~June 30~~ **September 1** of each year after ~~1986~~, **1998**, the department shall deposit in the ~~corrections~~ **misdemeanant** fund of a ~~each~~ county that has complied with section 12 of this chapter and that has adopted an ordinance to receive deposits under section 6 of this chapter:

(1) if the county has elected to receive level 1 funding, two



thousand dollars (\$2,000) times the difference between the county's base integer and the number of misdemeanants committed for the preceding twelve (12) months determined under section 10 of this chapter; or

(2) if the county has elected to receive level 2 funding; two thousand seven hundred dollars (\$2,700) times the difference between the county's base integer and the number of misdemeanants committed for the preceding twelve (12) months determined under section 10 of this chapter:

(b) Before June 30 of each year after 1986, the department shall deposit in the county corrections fund the amount described in subsection (a)(1) if:

(1) the county elects to receive level 2 funding; and the county fails to comply with section 12(a)(2) of this chapter during the twelve (12) month period described in section 10 of this chapter; and

(2) the county complies with section 12(a)(1) of this chapter during the twelve (12) month period described in section 10 of this chapter:

(c) If a county elects to receive level 3 funding; before August 1 of each year, the department shall deposit three thousand five hundred dollars (\$3,500) times the county's base integer: the greatest of the following:

(1) The sum determined by multiplying the total amount appropriated for the county misdemeanor fund by the county's multiplier.

(2) The minimum allocation amount assigned to the county under section 11.1(a) of this chapter.

(3) After state fiscal year 1999, the amount deposited by the department in the misdemeanor fund for the county in state fiscal year 1999.

SECTION 8. IC 11-12-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. (a) Notwithstanding section 13 of this chapter, the department shall deposit funds in county ~~corrections~~ **misdemeanant** funds under this section if the funds appropriated to the department for county ~~corrections~~ **misdemeanant** funds are insufficient to meet the amounts required to be deposited under section 13 of this chapter.

(b) The department shall make deposits until the funds described in subsection (a) are exhausted and shall make the deposits in the following order:

(1) To the county corrections fund of counties electing to receive



level 3 funding in the same order as the ordinances were filed with the secretary of state under section 9 of this chapter.

(2) After all of the deposits have been made under subdivision (1); then to county corrections funds of counties electing to receive level 2 funding; prorated in accordance with the ratio the amount due to a county corrections fund bears to the total amount due all counties that elect to receive level 2 funding.

(3) After all deposits have been made under subdivisions (1) and (2); then deposits to counties electing to receive level 1 funding in accordance with the ratio the amount due to the corrections fund of a county electing to receive level 1 funding bears to the amount due to the corrections fund of all counties electing to receive level 1 funding.

(c) (b) Before July 16 of each year, the commissioner shall send a notice to each county legislative body that has filed an ordinance under section 9 of this chapter: **executive and sheriff**. The notice must contain the following:

(1) The amount of money appropriated for all county **corrections misdemeanor** funds in Indiana.

(2) The amount that will be deposited in the county **corrections misdemeanor** funds. for counties electing to receive level 3 funding under section 13 of this chapter.

(3) The balance of the appropriated amount that is available for deposits to county corrections funds for counties electing to receive level 1 and level 2 funding.

(d) (c) The notice required under subsection (c) subsection (b) must be in the following form:

Notice Concerning County ~~Corrections~~ **Misdemeanant** Funds

The amount appropriated

for July 1 . . . to June 30 . . .

for county ~~corrections~~ **misdemeanant**

funds is \$

The amount obligated for

level 3 funding for county

corrections funds is \$: : : :

The amount available for

level 2 and level 1 county

corrections funds is \$ - - -

The amount your county

misdemeanant fund will

receive is \$

SECTION 9. IC 35-38-2.6-1 IS AMENDED TO READ AS



FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to the sentencing of a person convicted of:

- (1) a felony whenever any part of the sentence may not be suspended under IC 35-50-2-2 or IC 35-50-2-2.1; **or**
- (2) **a misdemeanor whenever any part of the sentence may not be suspended.**

(b) This chapter does not apply to persons convicted of any of the following:

- (1) Sex crimes under IC 35-42-4 or IC 35-46-1-3.
- (2) Offenses related to controlled substances listed in IC 35-38-1-7.1 for which a Class A or Class B felony is imposed.
- (3) Any of the felonies listed in IC 35-50-2-2(b)(4).

SECTION 10. IC 35-38-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) Except as provided by ~~subsections (b) and (c)~~; **subsection (b)**, a person convicted of a misdemeanor may not be committed to the department of correction. ~~if there are fewer than sixty (60) days remaining before his earliest possible release date. However, if the commissioner of the department of correction gives notice to a sheriff that he will pay a per diem under IC 11-8-3-3, then a person may not be committed to the department of correction unless there are more than one hundred eighty (180) days remaining before his earliest possible release date.~~

(b) ~~If the inmate population of a local facility is equal to or in excess of its rated capacity, a person convicted of a misdemeanor who has more than sixty (60) but fewer than one hundred eighty (180) days remaining before his earliest possible release date may be committed to the department of correction. However, before a sheriff transfers the custody of a person under this subsection, the sheriff shall give notice to the department that the inmate population of the local facility is equal to or in excess of its rated capacity.~~

(c) ~~If the county executive decides that the county should not house persons convicted of misdemeanors who have more than sixty (60) days remaining before their earliest possible release dates, then those persons may be committed to the department of correction. However, notice of the county executive's decision must be transmitted to the commissioner of the department of correction not more than ten (10) days after the sheriff has received notice under subsection (a).~~

(b) **Upon a request from the sheriff, the commissioner may agree to accept custody of a misdemeanant:**

- (1) **if placement in the county jail:**
 - (A) **places the inmate in danger of serious bodily injury or**



death; or

(B) represents a substantial threat to the safety of others;

(2) for other good cause shown; or

(3) if a person has more than five hundred forty-seven (547) days remaining before the person's earliest release date as a result of consecutive misdemeanor sentences.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 11-8-3-3; IC 11-12-6-1; IC 11-12-6-3; IC 11-12-6-4; IC 11-12-6-5; IC 11-12-6-8; IC 11-12-6-9; IC 11-12-6-10; IC 11-12-6-11; IC 11-12-6-12.

SECTION 12. **An emergency is declared for this act.**

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